

06-120

The Secretary presents her compliments to their Excellencies and Messieurs and Mesdames the Chiefs of Mission and has the honor to bring to their attention a revision to the Public Health Security and Bioterrorism Preparedness Act of 2002, also known as the "Bioterrorism Act," with respect to the importation of certain types of food products into the United States. This note replaces the Department's note No. 04-14, dated February 2, 2004.

The requirements described in the note No. 04-14 are still applicable to food items imported for commercial use, including hand-carried quantities. However, food carried by or otherwise accompanying an individual when arriving in the United States for personal use (for consumption by that individual, his/her family or friends, and not for sale or other distribution) and food that was made by an individual in his/her personal residence and sent by that individual as a personal gift (for non-business reasons) to an individual in the United States are not subject to the requirements of the Bioterrorism Act.

In addition, according to the current FDA Compliance Policy Guide for Prior Notice of Imported Food, the U.S. Food and Drug Administration (FDA)

U.S. Customs and Border Protection (CBP) will typically consider not taking any regulatory action when an article of food is imported or offered for import for non-commercial purposes with a non-commercial shipper, and no prior notice has been submitted. Generally, a non-commercial purpose is when the food is purchased or otherwise acquired by an individual for non-business purposes and the shipper is an individual.

Therefore, in many cases, FDA or CBP generally will not stop shipments by foreign mission personnel lacking a prior notice if the shipment contains articles of food for personal use, and they are shipped from another person for non-business purposes. Further information on FDA's current discretion policy on prior notice of imported foods is available on the Internet at <http://www.cfsan.fda.gov/~pn/cpgpn6.html>.

The Department looks to the diplomatic missions to bring the contents of this note to the attention of all their personnel, both in Washington and at the respective consular missions throughout the United States.

Department of State,
Washington,

A handwritten signature in black ink, consisting of a stylized 'D' followed by a flourish.

MAY 23 2006